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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,135	12/01/2003	David Leslie	455444.15034	2639

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EXAMINER

BEFUMO, JENNA LEIGH

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 09/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/725,135

Applicant(s)

LESLIE, DAVID

Examiner

Jenna-Leigh Befumo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1 – 14 are pending.

Priority

2. The claims with including the reinforcing means limitations are only given priority back to the filing date of the present application, since the reinforcing means were not disclosed in the parent application.

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the disclosure fails to provide support for the limitation that the attachment means are located in a first corner formed by the top edge and the first side edge and a second corner formed by the bottom edge and the second side edge.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 4 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The disclosure fails to teach one of ordinary skill in the art how to use and secure the towel to a customer if the attachment means are on a first corner defined by the top edge and the first edge and on a second corner defined by

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the bottom edge and said second edge. These corners do not have any edge in common so one the attachments is going to be on the bottom half of the towel covering the wearer's chest and the second attachment means is on the bottom half of the towel which would be covering the wearer's back and neck. The disclosure shows in the figures and teaches that the attachment are both on the same edge of the towel which is also the edge that has been cut into to form a slit. Further, the claims do not recite which side edge, the first or second side edge, has been cut to form the slit. Hence, only one attachment means is located on the edge with the slit. Thus, claims 4 is rejected.

6. Claims 3 and 5 – 14 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a towel with a slit on a first side edge and attachment means in each of the two corners formed by said first side edge, does not reasonably provide enablement for a towel with a slit on a first side edge and attachment means in each of the two corners formed by the top edge, bottom edge, or side edge. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to use the invention commensurate in scope with these claims. How would the towels be secured in place if the attachment means were not on the same edge as the slit? Would the towel need external means to be secured or could the towel be secured in some fashion with the attachment means in other locations than the two shown in Figures 1 and 3?

7. Claim 10 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a plastic coating on the lower portion of the towel where the lower portion is between a side edge of the towel and a line running parallel to the first and second side edges, does not reasonably provide enablement for a towel where the lower portion is between

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the bottom edge and a line running parallel to the top and bottom edges and not including the slit. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims. Claim 10 doesn't limit the upper and lower portions to a specific orientation. However, the use of the terms top, bottom, and side edge do give the towel orientation. Thus, it would make the most sense that the upper portion includes the entire top edge, while the lower portion includes the entire bottom edge, with the line separating the two portions runs parallel to the top and bottom edges and below the slit in the towel. However, the disclosure teaches that the portions are oriented in the opposite direction, with the line separating the two portion running parallel to side edges. Hence, the claim is broader than the scope enabled by the disclosure.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1 – 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. Claim 1 recites the limitation "bottom edge" in 6. There is insufficient antecedent basis for this limitation in the claim. While the claim recites antecedent basis for the top edge and first and second side edges, the claim did not set forth that the towel had a bottom edge. For purposes of examination the towel is considered to be a four sided towel with the top and bottom edges opposite each other and the two side edges opposite each other. Claims 4 and 9 are similarly rejected. And claims 2, 3, 5 – 8, and 10 – 14 are similarly rejected.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Peterson et al. (1,793,243).

Peterson et al. discloses a hair cutting garment comprising a sheet of paper having for sides wherein one side has a slit cut perpendicular the side and into the body of the sheet (Figure 2). The garment includes a reinforcing strip running along the edge of the opening formed by the slit (page, 1, lines 50 – 60). Claims 1 and 2 are rejected.

13. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Richmond (2,526,505).

Richmond discloses an apron or cloth designed to go around the neck of a barber shop customer comprising a rectangular shaped cloth or shield with a slit cut perpendicular to one of the four edges and into the body of the cloth (Figure 1). The edge of the cloth including the cut open slit hemmed over which reinforces the edges (column 2, lines 15 – 25). Claims 1 and 2 are anticipated.

14. Claims 1, 3, 4, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Farber et al. (3,329,969).

Farber et al. disclose a bib comprising rectangular sheet with a slit cut perpendicular to one of the four edges and into the body of the sheet (Figure 1). The sheet includes adhesive in

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the top corners 23 and 24 for securing the bib during use (column 2, lines 42 – 50) and adhesive 15 in the bottom corners to form a folded over portion at the bottom of the bib (column 2, lines 5 – 10). Thus, the bib includes attachment means in all four corners. The bib is made from cellulosic tissue, which is a paper material (column 4, lines 3 – 5). Thus, claims 1, 3, 4, and 8 are anticipated.

15. Claims 1 – 4 and 6 – 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Rowe et al. (3,332,547).

Rowe et al. discloses a disposable bib having a rectangular shape and a slit cut perpendicular to one of the four edges and into the body of the sheet (Figure 1). The portions adjacent the slit are folded over to form a reinforced neck (column 2, lines 35 – 42). Attachment means comprising adhesive are located in each corner of the bib 33, 34, 35, and 36 (column 2, lines 56 – 70). The disposable material is made from an absorbent fibrous wadding such as cellulose wadding, or nonwoven webs made from synthetic or carder cotton fibers (column 1, line 65 – column 3, line 5). Thus, claims 1 – 4, 6, and 7 are anticipated.

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 3, 5, 8, 9, 11, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson et al. in view of Kahn (4,660,225).

The features of Peterson et al. have been set forth above. Peterson et al. discloses that the garment is secured during use by wrapping the slit portion around the customer's neck and connecting the overlapping portion 15 by means of a pin (page 1, lines 92 – 97). However, Peterson et al. fails to teach using a hook and loop fastening means which is connected to the garment. Kahn is drawn a bib or apron which is wrapped around a customer's neck to protect their clothing (abstract). Kahn discloses that the apron can be fastened by means such as snaps, buttons, or Velcro fasteners (column 1, lines 25 – 35). Further, Kahn teaches that Velcro fasteners can be coupled and uncoupled repeatedly and are unobtrusive (column 2, lines 10 – 14). Thus, it would be obvious to one of ordinary skill in the art to use a hook and loop fastener as taught by Kahn as the means to attach the overlapping portion disclosed by Peterson et al. since the hook and loop fastener can be repeatedly opened and closed and the hook and loop fastener won't be uncomfortable or stick the wearer's neck like a pin might when being used. The overlapping portion taught by Peterson et al. includes two corners. Thus, claims 3, 5, 8, 9, 11, and 14 are rejected.

18. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson et al. as applied to claim 1 above, and further in view of Rowe et al.

Claims 6, 7, 10, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson et al. and Kahn as applied to claims 3 and 9 above, and further in view of Rowe et al.

The features of Peterson et al., Kahn, and Rowe et al. have been set forth above. Peterson et al. discloses that garment is made of paper (page 1, lines 2 – 5). Peterson et al. fails to teach that the garment can be made from other materials. Rowe et al. is drawn to disposable garments or bibs. Rowe et al. teaches that the material may be made from cellulose wadding or other

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suitable flexible material including nonwoven webs of synthetic fiber or carded cotton fibers (column 1, line 65 – column 2, line 5). Thus, it would have been obvious to one having ordinary skill in the art to use other suitable flexible materials such as nonwoven synthetic fiber and carded cotton fiber webs, as taught by Rowe et al. in the disposable garment of Peterson et al. since Rowe et al. discloses these material are suitable for use in disposable bibs. Also the fibrous nonwoven webs are softer and have an improved comfort since the web is made from fibers instead of a paper product. Thus, claims 6, 7, 12, and 13 are rejected.

Additionally, Peterson et al. fails to teach using a film coated on the garment. Rowe et al. discloses the disposable can be made with a thin moisture resistant film attached to the fabric layer (column 1, lines 60 – 65). Thus, it would have been obvious to one having ordinary skill in the art to attach a moisture resistant film layer as taught by Rowe et al. to the garment taught by Peterson et al. prevent liquids from soaking through the covering garment and getting the wearer's clothes wet or stained. Thus, claim 10 is rejected.

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following references are made of record since they all teach covering garments made by forming a slit perpendicular to one of the four sides of the garment and cutting into the body of the garment: Laverdiere (1,742,995); Webster (1,995,760); Tapper (2,289,526); Privott (2,523,323); Baker et al. (3,067,428); and Meeker (3,857,116).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (571) 272-1472. The examiner can normally be reached on Monday - Friday (8:00 - 5:30).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Jenna-Leigh Befumo', with a stylized flourish at the end.

Jenna-Leigh Befumo
September 26, 2005